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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/901,338	07/28/97	KEESMAN	PHB-33946A

LAURIE E GATHMAN  
U S PHILIPS CORPORATION  
580 WHITE PLAINS ROAD  
TARRYTOWN NY 10591

WM51/1101

EXAMINER
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RAC, A

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 11/01/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
08/901,338

Applicant(s)  
Keesman

Examiner  
Anand Rao

Group Art Unit  
2613



☒ Responsive to communication(s) filed on Aug 21, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 1-12 and 14 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-12 and 14 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

### **Part III DETAILED ACTION**

#### ***Response to Request for Reconsideration***

1. Applicant's arguments with respect to claims 1-12 and 14 as filed in Paper 43 on 8/21/00 have been considered but are not persuasive.
2. Claims 1-12 and 14 rejected under 35 U.S.C. § 102(e) as being anticipated by Kirayama, as was for set forth in the previous Office Action of Paper 42 mailed on 5/15/00.
3. The Applicant presents one argument contending the Examiner's rejection of claims 1-12, and 14 under 35 U.S.C. § 102(e) as being anticipated by Kirayama, as was for set forth in the previous Office Action of Paper 42 mailed on 5/15/00. However, after a careful consideration of the arguments presented, the Examiner must maintain the grounds of rejection for the reasons that follow.

Firstly, the Applicant asserts that Kirayama is not directed towards having B2 relate towards the input rate of the decoder buffer, but towards the output rate of the decoder buffer (Paper 42: page 3, lines 3-27; page 4, lines 1-7; page 5, lines 3-28). However, the Examiner respectfully disagrees. It is noted that the citation of question (Kirayama: column 9, lines 63-68; column 10, lines 1-42), establishes the fact the delay is based on "a sum delay of the delay in the buffer memory 39 of Fig. 5 plus additional video delay becomes equal to a predetermined video delay threshold value THV..." and further discloses that the "sum delay relative to the supply of the encoded video signal to the buffer memory 39 in the multiplexer device..." can be used to find the "propagation delay..." of the multiplexer device. To the Examiner this establishes the fact that the "sum delay" doesn't not include or account for the decoder buffer delay as the Applicant

asserts (Paper 43, page 3, lines 7-9), but only accounts for elements in codec chain between the encoder and the decoding buffer input (Kirayama: column 10, lines 65-68; column 11, lines 1-17). Furthermore, one notes that fluctuations in the output bit rate of the decoder buffer are dealt with by not modifying the output bit rate of the decoder, but by modifying the associated processing time of the following video decoder to account for lip synchronism (Kirayama: column 11, lines 8-13). Additionally, it is noted that there is no bit-rate feedback from the decoder to the decoding buffer control unit to communicate the output bit rate of the decoder buffer to the video buffer read controller, only a read request signal (Kirayama: column 10, lines 1-8). What this clearly establishes is that the Applicant's assertion B2 or the decoder buffer output rate is not a part of the constant "sum delay" as has been erroneously asserted by the Applicant. Now, the bit rate of interest as reading upon the B2 of the claimed invention is the input bit rate into the decoder buffer as is produced by the video processor as is produced by the (Kirayama: column 9, lines 58-61), as written into the decoder video buffer (Kirayama: column 14, lines 42-55) by a supplied write control signal (Kirayama: column 9, lines 30-36). Now, as established by the reference, the input bit rate to the decoder buffer (B2) and the output bit rate of the decoder are maintained such that an "underflow condition" is a controlling condition (Kirayama: column 10, lines 10-16). And, if as established by the Applicant, the output bit rate of the decoder buffer is proportional to B1, and not inverse to it (Paper 43: page 3, lines 20-21), this would make the input rate to the decoder buffer inversely proportional to B1, since the input rate to the decoder buffer is inversely proportional to the output decoder buffer bit rate as a part of the underflow condition (Kirayama: column 10, lines 10-16).

Secondly, the Applicant argues that the buffer occupancy signal, or BOC signal, is not used to regulate the encoder buffer, but only shows when the BOC is equivalent to 0, and therefore does not read upon the “deriving...” limitation, as in the claims (Paper 43: page 4, lines 14-26; page 5, lines 8-27). The Examiner respectfully disagrees. First of all, it is noted that the BOC signal is an output from a set of comparators, and is not simply a binary signal, but does indicate the actual “level” of buffer occupancy (Kirayama: column 12, lines 10-15), and therefore would indicate a capacity for generating bits in accordance with a “derivation...” step as in the claims. It is further noted that this signal not only controls suspension of the video encoder operation as was noted by the Applicant (Kirayama: column 6, lines 30-35), but when the encoder is enabled, the BOC signal is also used to control the rate at which the encoder generates bits (Kirayama: column 6, lines 35-40). Accordingly, the Examiner maintains that Kirayama remains applicable as a reference.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand Rao whose telephone number is (703) 305-4813.

Patent Examiner  
Anand Rao  
Art Unit 2713  
**ANDY BAO**  
**PRIMARY EXAMINER**

asr  
October 30, 2000